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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA)	Civil No.
and THE PEOPLE OF THE)	
STATE OF CALIFORNIA, ex rel.)	<u>COMPLAINT FOR INJUNCTIVE</u>
ATTORNEY GENERAL EDMUND G.)	<u>RELIEF</u>
BROWN JR.)	
Plaintiffs,)	[Residential Lead-Based Paint
)	Hazard Reduction Act and State
v.)	Law Claim]
)	
LINDER & ASSOCIATES,)	
)	
Defendant.)	

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of the State of California

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10 Attorneys for People of the State of
California, ex rel. Attorney General
11 Edmund G. Brown Jr.

1 Plaintiffs, the United States of America, on behalf of the
2 United States Environmental Protection Agency ("EPA") and the
3 Department of Housing and Urban Development ("HUD"), and the
4 People of the State of California, Ex Rel. Attorney General
5 Edmund G. Brown Jr., ("the People") through their undersigned
6 counsel, allege as follows:

7 NATURE OF THE ACTION

8 1. This is a civil action for injunctive relief brought
9 against Linder and Associates ("Linder") for violations of the
10 Residential Lead-Based Paint Hazard Reduction Act of 1992
11 ("Act"), 42 U.S.C. § 4851-56 and the California Unfair
12 Competition Law, Business Professions Code section 17200, et seq.
13 ("UCL"). The Act is intended to, among other things, protect
14 tenants (particularly children under the age of six) from lead
15 poisoning by requiring the owners and managing agents of
16 apartment buildings to warn tenants about any known presence of
17 lead-based paint and lead-based paint hazards, and to provide
18 prospective tenants with certain information about how to protect
19 themselves and their families against the dangers of lead
20 poisoning.

21 2. Linder violated the Act by failing to make the required
22 disclosures, thereby denying families residing in the subject
23 properties described below the opportunity to take steps to
24 protect themselves and their children from lead poisoning.

25 3. Linder, in violating the Act, and in violating the Los
26 Angeles County Health and Safety Code section 11.28.030 ("Los
27 Angeles County Ordinance"), is also in violation of the UCL.
28

1 4. By this action, the United States and the People see
2 enjoin Linder from further violations of the Act and the UCL.

3 JURISDICTION AND VENUE

4 5. This Court has jurisdiction over the parties and subject
5 matter pursuant to 28 U.S.C. §§ 1331, 1345 and 1367(a), 42 U.S.C.
6 § 4852d(b)(2) and (5), and 15 U.S.C. § 2616 and this Court has
7 jurisdiction over the subject matter of the claims made under
8 state law in this action under 28 U.S.C. § 1367(a) (supplemental
9 jurisdiction) because the claims under state law arise out of the
10 same common nucleus of facts as the federal question jurisdiction
11 claims set forth in this Complaint and they are so closely
12 related to the actions brought under federal law that they form
13 part of the same case or controversy.

14 6. Venue is proper in this Court pursuant to 28 U.S.C. §
15 1391(b) and (c) because the lawsuit involves actions that took
16 place, and the subject properties are located, in the Central
17 District of California.

18 PARTIES

19 7. Plaintiffs are the United States of America acting at
20 the request, and on behalf, of EPA and HUD, and the People of the
21 State of California, Ex Rel. Attorney General Bill Lockyer.

22 8. Defendant Linder is a business entity operating in the
23 State of California.

24 ENFORCEMENT AUTHORITY

25 9. Congress has found that low-level lead poisoning is
26 widespread among children. 42 U.S.C. § 4851(1). At low levels,
27 lead poisoning in children causes intelligence quotient
28 deficiencies, reading and learning disabilities, impaired
hearing, reduced attention span, hyperactivity, and behavior

1 problems. 42 U.S.C. § 4851(2).

2 10. In an effort to address the occurrence of lead
3 poisoning, Congress enacted the Act in 1992.

4 11. The purpose of the Act is, among other things, (A) "to
5 encourage effective action to prevent childhood lead poisoning by
6 establishing a workable framework for lead-based paint hazard
7 evaluation and reduction"; (B) "to ensure that the existence of
8 lead-based paint hazards are taken into account in the . . .
9 sale, rental, and renovation of homes and apartments;" and (C)
10 "to educate the public concerning the hazards and sources of
11 lead-based paint poisoning and steps to reduce and eliminate such
hazards." 42 U.S.C. § 4851a.

12 12. The Act and its implementing regulations, found at 24
13 C.F.R. Part 35, Subpart H, and 40 C.F.R. Part 745, Subpart F,
14 require, among other things, lessors of apartment buildings
15 subject to the Act to provide certain information to tenants when
16 a new lease is entered into or, if the lease predates the
17 effective date of the Act, at the first change to the terms of an
18 existing lease after the effective date of the Act, such as a
19 rent increase. See 24 C.F.R. §§ 35.88 & 35.92; 40 C.F.R.
§§ 745.107 & 745.113.

20 13. Lessors are required to disclose or provide to each
21 tenant, among other things, the following information:

- 22 a) Any information concerning lead-based paint and
23 lead in dust or soil in the subject property.
24 b) Any records or reports available to the lessors
25 pertaining to lead-based paint and lead in dust or
26 soil.
27 c) A lead hazard information pamphlet approved by
28 EPA.

1 14. In addition, lessors are required to include in each
2 contract for a lease or as an attachment to the lease, among
3 other things:

- 4 a) A Lead Warning Statement containing specific
5 language as set forth in the regulations.
- 6 b) A statement disclosing the presence of known lead-
7 based paint and lead in dust or soil or a
8 statement that there is no knowledge of such
9 information.
- 10 c) A list of any records or reports pertaining to
11 lead-based paint and lead in dust or soil that
12 have been provided to the lessee or a statement
13 that there are no such reports.
- 14 d) A statement by the tenant affirming receipt of the
15 information set out in paragraph 12 above.
- 16 e) The signatures of the lessors and agents
17 certifying the accuracy and completeness of their
18 required disclosures, and signatures of the
19 lessees attesting to their receipt of the required
20 disclosures, along with the dates of all parties'
21 signatures.

22 15. The Act and its implementing regulations also impose
23 certain requirements on "agents" who enter into contracts with
24 lessors for the purpose of leasing housing subject to the Act.
25 Among other things, each such agent is required to inform lessors
26 of their obligations under various regulations, including 24
27 C.F.R. §§ 35.88 and 35.92 and 40 C.F.R. §§ 745.107 and 745.113.
28 Agents are also required either to ensure that lessors perform
all activities required by the specific regulations or to

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1 personally ensure compliance with the requirements of such
2 provisions. 24 C.F.R. § 35.94 & 40 C.F.R. § 745.115.

3 16. Section 10189(b)(5) of the Act, 42 U.S.C.
4 § 4852d(b)(5), states it is a violation of Section 409 of the
5 Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2689, to fail
6 to comply with a rule issued under 42 U.S.C. § 4852d. Pursuant
7 to § 4852d(b)(2), and Section 15 of TSCA, 15 U.S.C. § 2616, the
8 United States may seek injunctive relief for violations of the
9 Act and its implementing regulations.

10 17. The Los Angeles County Ordinance provides, among other
11 things, that "No person shall permit readily accessible,
12 dangerous levels of lead-bearing surfaces ... to remain on ...the
13 exterior or interior surfaces, fixtures or appurtenances of any
14 dwelling, dwelling unit, child care facility, institution, hotel
15 guest room, or in any premises inhabited or frequented by
16 children."

17 18. Linder engaged in unfair competition as defined in
18 California Business and Professions Code section 17200, when it
19 violated the Act and when it violated the Los Angeles County
20 Ordinance by permitting readily accessible dangerous levels of
21 lead bearing substances to remain on interior surfaces of the
22 dwelling units inhabited or frequented by children. Pursuant to
23 California Business and Professions Code section 17203, the
24 People are entitled to injunctive relief pursuant to the UCL
25 requiring Defendant to comply with Section 1018 and the Los
26 Angeles County Ordinance and an order requiring Defendant to
27 abate Lead-Based Paint.

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- a) 1159-1173 Westmoreland, Los Angeles, CA 90008
- b) 1172 N. S. Kingsley Dr., Los Angeles, CA 90029
- c) 119 S. Bonnie Brae, Los Angeles, CA 90067
- d) 1220 S. Harvard Ave., Los Angeles, CA 90046
- e) 1420 S. Flower Street, Los Angeles, CA 90015
- f) 2651 S. Manhattan Pl., Los Angeles, CA 90018
- g) 440 E. 27th St., Los Angeles, CA 90011
- h) 3601 W. 59th St., Los Angeles, CA 90043
- i) 2941-2943 ½ W. 8th St., Los Angeles, CA 90005
- j) 400-402 S. Alexandria Ave., Los Angeles, CA 90020
- k) 806 N. Austin Ave., Inglewood, CA 90302
- l) 211-217 3/4 N. Reno St., Los Angeles, CA 90026
- m) 1325-1335 S. Bronson Ave., Los Angeles, CA 90019
- n) 1360 S. Burlington Ave., Los Angeles, CA 90006
- o) 1717-1723 14th Street, Los Angeles, CA 90006
- p) 1111 S. Norton Ave., Los Angeles, CA 90019
- q) 5705 Carlton Way, Los Angeles, CA 90028
- r) 724-743 ½ S. Carondelet, Los Angeles, CA 90057
- s) 462-470 1/4 S. Lake St., Los Angeles, CA 90057
- t) 1326 W. 11th St., Los Angeles, CA 90015
- u) 1036 S. Menlo Ave., Los Angeles, CA 90006
- v) 3100-3168 W. Slauson Ave., Los Angeles, CA 90043
- w) 5809-5853 S. 8th Ave., Los Angeles, CA 90043
- x) 3101-3153 W. 59th St., Los Angeles, CA 90043
- y) 3458-3460 3/4 E. 7th St., Los Angeles, CA 90023
- z) 1648 Edgecliffe Dr., Los Angeles, CA 90026

1 aa) 4717 Elmwood Ave., Los Angeles, CA 90004
2 bb) 5212-5216 ½ Fountain Ave., Los Angeles, CA 90029
3 cc) 2850 Francis Ave., Los Angeles, CA 90005
4 dd) 812-820 ½ N. Fuller Ave., Los Angeles, CA 90046
5 ee) 1918 N. Grace Ave., Los Angeles, CA 90068
6 ff) 909 S. Gramercy Dr., Los Angeles, CA 90019
7 gg) 3730-3740 W. 9th, Los Angeles, CA 90019
8 hh) 15504 & 15612 Hesperia Rd., Victorville, CA 92392
9 ii) 218 E. Hyde Park, Inglewood, CA 90302
10 jj) 118 W. Kelso St., Inglewood, CA 90301
11 kk) 1416 N. Kenmore St., Los Angeles, CA 90027
12 ll) 12295-13013 Lakota Rd., Apple Valley, CA 92308
13 mm) 939 S. Serrano Ave., Los Angeles, CA 90006
14 nn) 325 S. Columbia Ave., Los Angeles, CA 90057
15 oo) 1010 N. Madison Ave., Los Angeles, CA 90029
16 pp) 655 N. Manhattan Pl., Los Angeles, CA 90004
17 qq) 5044 Maplewood Ave., Los Angeles, CA 90004
18 rr) 1950-1960 S. Marvin Ave., Los Angeles, CA 90034
19 ss) 4061-4069 ½ Melrose Ave., Los Angeles, CA 90029
20 tt) 414 N. Coronado St., Los Angeles, CA 90028
21 uu) 3703-3707 ½ Monon St., Los Angeles, CA 90027
22 vv) 3805-3811 3/4 Montclair St., Los Angeles, CA
23 90018
24 ww) 1272-1274 ½ Mullen Ave., Los Angeles, CA 90019
25 xx) 8233 S. Figueroa St., Los Angeles, CA 90003
26 yy) 751 S. Normandie Ave., Los Angeles, CA 90005
27 zz) 1026 S. Norton Ave., Los Angeles, CA 90019
28 aaa) 8926 Orion Ave., North Hills, CA 91343
bbb) 1308-1314 S. 5th Ave., Los Angeles, CA 90019
ccc) 1631-1649 N. Rodney Dr., Los Angeles, CA 90027

ddd) 5611 Carlton Way, Hollywood, CA 90028
eee) 4729 San Vicente Blvd., Los Angeles, CA 90019
fff) 4757-4763 San Vicente Blvd., Los Angeles, CA
90019
ggg) 4809-4819 San Vicente Blvd., Los Angeles, CA
90019
hhh) 1381 Keniston Ave., Los Angeles, CA 90019
iii) 711 S. Harvard, Los Angeles, CA 90005
jjj) 717-723 S. Harvard, Los Angeles, CA 90005
kkk) 625 N. Sycamore Ave., Los Angeles, CA 90036
lll) 15702-15720 Tern Rd., Victorville, CA 92394
mmm) 5018-5026 Topanga Cyn. Blvd., Woodland Hills, CA
90164
nnn) 511 Venice Way, Inglewood, CA 90302
ooo) 10625-35 S. Vermont Ave., Los Angeles, CA 90044
ppp) 1251 S. Westmoreland Ave., Los Angeles, CA 90006
qqq) 1521 Wilcox Ave., Hollywood, CA 90028
rrr) 1523 & 23 ½ Wilcox Ave., Hollywood, CA 90028
sss) 427-431 Normandie Pl., Los Angeles, CA 90004
ttt) 825 S. Windsor Blvd., Los Angeles, CA 90005

20. Linder is a "person" within the meaning of the Act and
an "agent" within the meaning of 24 C.F.R.
§ 35.86 and 40 C.F.R. § 745.103.

21. For 805 apartment units, all from the above buildings,
Linder has failed to make one or more of the disclosures or
complete one or more of the disclosure activities required by the
Act, and Linder failed to ensure that the lessors of such
properties made the required disclosures or completed the
required disclosure activities.

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1 22. The acts or omissions referred to in the preceding
2 paragraph constitute violations of the Act and its implementing
3 regulations.

4 FIRST CLAIM FOR RELIEF

5 23. The allegations in Paragraphs 16-22 are realleged and
6 incorporated herein by reference.

7 24. Section 1018 of the Act, 42 U.S.C. § 4852d, and the
8 applicable regulations, 24 C.F.R. Part 35, Subpart H, and 40
9 C.F.R. Part 745, Subpart F, impose upon Linder the requirements
identified in Paragraphs 11 through 14 set forth above.

10 25. Linder has violated the Act by failing to complete the
11 required disclosure activities and failing to make required
12 disclosures to families leasing apartments subject to the Act,
13 and by failing to ensure the lessors of such properties made the
14 required disclosures or completed the required disclosure
15 activities.

16 SECOND CLAIM FOR RELIEF

17 26. The allegations in Paragraphs 16-22 are realleged and
18 incorporated herein by reference.

19 27. Linder engaged in unfair competition as defined in
20 California Business and Professions Code section 17200, by
21 engaging in acts or practices which include, but are not limited
to, the following:

22 28. Linder engaged in unfair competition in that it
23 violated the Act by failing to complete the required disclosure
24 activities and failing to make the required disclosures to
25 families leasing certain apartments subject to the Act, and by
26 failing to ensure that the lessors of such properties made the
27 required disclosures or completed the required disclosure
28 activities.

29. Linder engaged in unfair competition in that it violated the Los Angeles County Ordinance by permitting readily accessible, dangerous levels of lead-bearing substances to remain on interior surfaces of Los Angeles County dwellings and dwelling units, and other Los Angeles County premises inhabited or frequented by children.

PRAYER FOR RELIEF

WHEREFORE, the United States and the People pray that this Court:

(a) Issue a declaratory judgment finding that Linder failed to comply with the Act and the UCL;

(b) Issue an order requiring that Linder comply with the Act and the UCL;

(c) Require Linder to take appropriate measures to rectify past violations of the Act and the UCL; and

(d) Provide for any and all other relief that this Court deems just and proper.

Respectfully submitted,

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